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SIPDIS

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TAGS: [PREL](#) [KAWC](#) [ICTY](#) [HR](#)
SUBJECT: BRAMMERTZ REFUSES TO RECOGNIZE CROATIAN PROGRESS
ON GOTOVINA DOCUMENTS

REF: ZAGREB 93 AND PREVIOUS

Classified By: Political Officer Chris Zimmer for reasons 1.4 (b) and (d)

11. (C) Summary. The Government of Croatia issued a non-paper on March 12 detailing their efforts to resolve the issue of missing documents (reftel) in the Gotovina case in progress at the International Criminal Tribunal for the former Yugoslavia (ICTY). Brammertz, office reached agreement with Croatia on a list of 23 key documents that Croatia must provide to the Court or give an explanation as to their whereabouts. Some documents have already been turned over and the investigation into others is ongoing both in Croatia and in Bosnia. Despite Croatia's efforts, however, Brammertz refuses to acknowledge significant progress. End Summary.

12. (C) In response to a demarche made earlier this month by the Czech Ambassador on behalf of the EU, the Government of Croatia (GOC) produced a non-paper detailing steps it has taken to resolve issues relating to document requests from ICTY in the Gotovina case. According to the non-paper, the Government of Croatia (GOC) has thus far resolved 823 out of 824 requests for assistance from the OTP. The remaining request relates to missing artillery documents from Operation Storm in 1995. The GOC, as a result of an administrative investigation launched after receiving a subpoena from the court in June 2008, submitted additional military documents beyond the OTP request, and reports on interviews with 206 persons who may have had knowledge of the missing documents. In addition, the GOC delivered detailed reports to ICTY and the OTP on October 14 and November 29, 2008, and January 29, 2009, detailing all investigations. The January report also contained information about the chain of command as the GOC reconstructed it, which differs from the OTP's assessment.

13. (C) On February 18, following Chief Prosecutor Brammertz, visit to Croatia and meeting with Minister of Justice Simonovic, the GOC and OTP signed the &Points of Understanding8 stipulating that 23 key artillery documents shall be the focus of further investigative efforts by the GOC, according to the non-paper. It notes that some documents (possibly four, according to sources) have already been found and delivered to the OTP, some (number unknown) have been destroyed, and for some, an investigation is underway in the military archives of Bosnia and Herzegovina. (Note: Operation Storm was a joint operation between Croatian and Bosnian forces and some records may have ended up in Bosnia. End Note.)

14. (C) The non-paper also notes that a member of the Gotovina defense team, Marin Ivanovic, and two active military officials have been charged for unauthorized possession and destruction of documents. The first hearings

have already taken place at the Zagreb Municipal Court.
(Note: The GOC is conducting both an administrative review to find documents, under the auspices of the Ministries of Defense, Interior, and Justice, as well as a criminal investigation led by Chief State Prosecutor Bajic into of any missing or destroyed documents. End Note)

15. (C) In a comment to the Ambassador on March 12, the Czech Ambassador said that he was very unhappy with a presentation ICTY Chief Prosecutor Brammertz recently gave in Prague earlier this month on Croatian cooperation with ICTY. Brammertz, he said, has personalized the issue and refuses to recognize the progress made or the good work that Justice Minister Simonovic is doing.

16. (C) Comment: Following on the Slovene blockade of EU accession, the documents question is yet another complication for EU negotiations. The Croatians are still hoping, however, that they can convince a majority of EU member states that they are cooperating with Brammertz even if they believe it will be hard to bring around more skeptical states like the Netherlands and the United Kingdom. End Comment.
BRADTKE